

**Exhibit 22 to Plaintiff's
Supplemental Opposition to
Defendant Benton Express, Inc.'s
Motion for Summary Judgment**

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION
4

5 CIVIL ACTION NO.: 2:05CV494-B
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7 HAZEL ROBY, As Administratrix
8 of the Estate of RONALD
9 TYRONE ROBY, Deceased,
10 Plaintiff,

11 v.

12 BENTON EXPRESS, INC., et al.,
13 Defendants.

14 _____/

15 DEPOSITION OF STEVE A. STEPHENS
16

17 The videotaped deposition of STEVE A.
18 STEPHENS was taken before Karen Kelley, CSR,
19 Notary Public, State at Large, on December 28,
20 2005, by the plaintiff, commencing at 10:02 a.m.
21 in the office of Carr, Allison in Brimingham,
22 Alabama, pursuant to the stipulations set forth
23 herein.

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15 federal motor carrier safety regulations?

16 A. No, sir.

17 Q. Now, I think you told me you have
18 never been a full-time employee in any capacity
19 with a trucking company?

20 A. That's correct.

21 Q. I know -- I don't know however you
22 give opinions concerning what a reasonable,
23 prudent trucking company would do, do you have any
24 background to give opinions concerning what a
25 reasonable trucking company would do when you have

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1 no experience in the trucking industry?

2 A. As far as policy, no.

3 Q. Do you know if a reasonable, prudent
4 trucking company would have a communication
5 policy?

6 MR. BROCKWELL: Object to the form.

7 A. That's going to be up to each
8 individual's company as to what the policies are.

9 Q. Do you know if a -- would you
10 consider a reasonable prudent -- would you, in
11 your opinion, believe a reasonable prudent
12 trucking company should have a communication
13 policy?

14 MR. BROCKWELL: Object to the form.

15 A. I'm not a trucking company
16 specialist, I don't know.

17 Q. Do you have any opinion whether a
18 reasonable, prudent company should enforce its

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19 safety policy?

20 MR. BROCKWELL: Object to the form.

21 A. Should they enforce safety policies?

22 Yes, they should.

23 Q. Do you have any idea whether a

24 reasonable and prudent trucking company should

25 have methods in place to track its

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1 tractor-trailers and its employees?

2 A. To track its tractor-trailers?

3 MR. BROCKWELL: Object to the form.

4 A. The -- that's up to each individual

5 company as to what's required by them. Define

6 tracking.

7 Q. Being able to locate the -- locate

8 its trucks?

9 A. By what method?

10 Q. You named one as GPS.

11 A. No, you named one as GPS. You asked
12 me about it.

13 Q. That's right. Well, let me just ask
14 you as an expert. All you have -- not questioning
15 me. I am going to do the questioning today. But
16 my question is, do you have any opinion whether a
17 reasonable, prudent trucking company should have a
18 method in place to track its trucks?

19 MR. BROCKWELL: Object to the form.

20 A. There could be any number of ways to
21 do that. It's obviously -- it would be

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22 beneficial.

23 Q. Do you believe that a reasonable

24 trucking company should have a method to track its

25 trucks?

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1 MR. BROCKWELL: Object to form.

2 Beyond expertise. Lack of foundation.

3 A. Well, there is a number of ways to

4 track. So obviously, you want to be able to get

5 in touch with your trucks, yes.

6 Q. And I am not disputing how many ways

7 there are. In fact, I am just asking, in general,

8 no matter what way they choose, but do you believe

9 a reasonable, prudent trucking company ought to

10 have methods to track its tractor-trailers?

11 MR. BROCKWELL: Object to form.

12 Outside of expertise and lack of foundation.

13 A. A method to -- obvious to contact,

14 yes, they should be able to contact the trucks.

15 Q. What about track its trucks?

16 MR. BROCKWELL: Object to the form.

17 A. That's the individual company's

18 preference there, the tracking. That's not a

19 requirement.

20 Q. No, I am not asking you about

21 requirements. I am saying -- if you have one,

22 that's fine if you don't. But all I am asking is,

23 do you have an opinion whether a reasonable,

24 prudent trucking company should be able to track

25 its trucks?

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1 driver called, he's safe and he told us he was on
2 his way back. Would you continue looking for him?

3 MR. BROCKWELL: Object to the form.

4 A. Based on that, it sounds like you are
5 withdrawing your request for us to look for him,
6 so therefore there would be no need to.

7 Q. Have you ever heard of the phrase --
8 I've heard it from an officer, but not to say you
9 have -- but have you ever heard the phrase that if
10 you fail to plan then you plan to fail?

11 MR. BROCKWELL: Object to the form.

12 A. I've heard the expression.

13 Q. What that means to you?

14 A. If you don't have a plan in place,
15 then there is going to be a possible failure
16 somewhere down the road.

17 Q. Have you received any information
18 from Benton to show whether or not they had a plan
19 in place to locate a missing driver?

20 MR. BROCKWELL: Object to the form.

21 A. That's was not my area of questions,
22 no.

23 Q. Okay. But I guess my question,
24 though, is have you ever seen any information that
25 would reveal whether Benton Express had a plan in

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1 information Benton Express provided to
2 authorities. Do you have any idea what other
3 companies would provide to authorities if they had
4 a missing vehicle?

5 A. No, sir.

6 Q. Do you have any industry experience,
7 or did any investigation, or survey, concerning
8 the type of information that other trucking
9 companies would submit if they were looking for a
10 missing vehicle?

11 A. No, sir.

12 Q. Do you have any opinion concerning
13 industry practices, or standards concerning
14 policies and procedures in place by other trucking
15 companies for missing vehicles?

16 A. No, sir.

17 Q. What do you base your opinion on
18 there being a reasonably prudent motor carrier
19 then when you don't know what other carriers do?

20 MR. BROCKWELL: Object to the form.

21 Q. In this report?

22 A. Once the vehicle has been reported
23 stolen or missing, it would appear they have made
24 the obvious attempts to locate the unit. The
25 terminal, of course, is also aware in Atlanta.

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1 They have notified Florida Highway Patrol, which
2 would be the local contact most of the time on
3 something like that because they can do more of a
4 regional broadcast to make contact with the state
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5 agencies. And my understanding is that FHP had
6 notified Alabama and Georgia of the missing
7 vehicle.

8 Q. Do you -- is that -- is it your
9 opinion then that a reasonable trucking company
10 wouldn't have did any other -- undertook any other
11 efforts to track their vehicle or employee?

12 A. Any other efforts such as?

13 Q. Well, I am just asking you. Would
14 they have done anything else, other than what you
15 say Benton did?

16 A. They have started the process here by
17 trying to locate it by using additional personnel.
18 Of course, obviously, they are were trying to get
19 law enforcement to try to help locate. It's my
20 understanding that one of the company personnel in
21 Pensacola attempted to drive part of the route to
22 locate the vehicle.

23 Q. Do you think a reasonably prudent --
24 do you think that was a reasonable thing to do to
25 go get in the car and try to track him?

□

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1 A. I think it's admirable.

2 Q. Do you think that -- do you think a
3 reasonably prudent company should go and try to
4 locate its vehicles as Benton Express did when
5 they sent employees out looking for him?

6 A. Again, I think it's admirable. They
7 are trying to locate their truck.

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8 Q. And I know -- I am asking you since
9 you give opinions about reasonably prudent motor
10 carriers, I am trying to figure out, do you
11 believe that's what a reasonably prudent motor
12 carrier should do is try to go locate and track
13 its employees?

14 MR. BROCKWELL: Object to the form.

15 A. Obviously, if a company vehicle is
16 missing, they are trying to locate their employee
17 obviously they got to go out and look for these
18 folks.

19 Q. You say that obviously they do have
20 to go out and look for them?

21 A. Sure. That's just common sense.

22 Q. Right.

23 A. That's just good business.

24 Q. Right. They ought to -- if they
25 truck become missing they ought to undertake a

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1 duty to go find it?

2 MR. BROCKWELL: Object to the form.

3 A. I am going to want to find my truck
4 if its gone missing.

5 Q. Right. And I understand what -- and
6 I am saying your expert opinion is, a reasonably
7 prudent motor carrier should undertake a duty to
8 go and try to find its truck?

9 MR. BROCKWELL: Object to the form.

10 Q. That's what you are saying, am I
11 right about that?